

**Remarks**

Applicant respectfully requests reconsideration of the rejection of the claims in view of the claim amendments above and the remarks set forth below. Claims 1-8 and 17-20 remain in the application. Claims 1, 2, 17 and 18 are amended. Claims 3-8 and 19 were previously presented. Claim 20 is as originally filed. Claims 9-16 were previously canceled.

**35 U.S.C. §102**

Claims 1-6, 8, and 17-20, stand rejected under 35 U.S.C. §102(e) as being anticipated by Webster et al. (U.S. Patent No. 7,170,880 B2, hereinafter referred to as “Webster”).

It is respectfully asserted that Webster fails to disclose:

“circuitry that receives the filtered first sample data modulated signal and the filtered second sample data modulated signal, the second sample data modulated signal up-sampled from the first sample data modulated signal, and delivers one of the filtered first sample data modulated signal and the filtered second sample data modulated signal for further processing depending on which sample data modulated signal exhibits desirable characteristics for a given operating environment,”

as described in currently amended claim 1.

Webster teaches that a “Baseband transmitter for a radio frequency (RF) communication device according to an embodiment of the present invention includes a single-carrier processor, a pulse shape filter, a multi-carrier processor and a signal combiner. The single-carrier processor generates a single-carrier signal at a first sample rate. The pulse shape filter includes multiple polyphase filters which filter the single-carrier signal according to a time shaping pulse that approximates a multi-carrier power spectrum and a sample switch that selects outputs of the polyphase filters at a second sample rate. The multi-carrier processor generates a multi-carrier signal at the second sample rate. The signal combiner combines the filtered single-carrier signal with the multi-carrier signal while maintaining phase, gain, frequency and timing alignment.” (Webster Abstract)

Multiplexer 213 of Webster selects amongst the output of the single-carrier pulse shape block 209, the output of the rate change filter 226, and the output of the combiner 223, which combines the output of the mixed carrier pulse shape digital filter 219 and the output of the rate change filter 226. None of the three inputs to the multiplexer 213 represents an up-sampled version, or filtered up-sampled version, of any of the other signals. Instead, the MUX is used to “select single-carrier packets for the single-carrier mode, to select multi-carrier packets for the multi-carrier mode, and to select mixed carrier packets for the mixed carrier mode of operation.” (Webster, column 8, line 64 to column 9, line 20)

While Webster discusses up-sampling, the discussion is with regard to the pulse shape filter, the output of which is not an input of the multiplexer, particularly in filtered form. (Webster, col. 3, lines 48-67; col. 4, lines 1-3) Thus, Webster fails to disclose “circuitry that receives the filtered first sample data modulated signal and the filtered second sample data modulated signal, the second sample data modulated signal up-sampled from the first sample data modulated signal, and delivers one of the filtered first sample data modulated signal and the filtered second sample data modulated signal for further processing depending on which sample data modulated signal exhibits desirable characteristics for a given operating environment,” as described in currently amended claim 1.

In view of the above remarks, it is respectfully submitted there is no 35 USC 112 enabling disclosure provided by Webster which makes the present invention as claimed in claim 1 unpatentable. It is further submitted that independent claim 17 is allowable for at least the same reasons that claim 1 is allowable. Since dependent claims 2-6, 8 and 18-20 are dependent from allowable independent claims 1 and 17, it is submitted that they too are allowable for at least the same reasons that their respective independent claims are allowable. Thus, it is further submitted that this rejection has been satisfied and should be withdrawn.

### **35 U.S.C. §103**

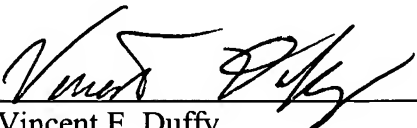
Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Webster. Since dependent claim 7 depends from allowable independent claim 1, it is submitted that claim 7 is allowable for at least the same reasons as independent claim 1 is allowable.

Having fully addressed the Examiner’s rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance.

Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's representative at (818) 260-4599, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee, other than the fee discussed above, is believed due. However, if an additional fee is due, please charge the additional fee to Deposit Account 07-0832.

Respectfully submitted,

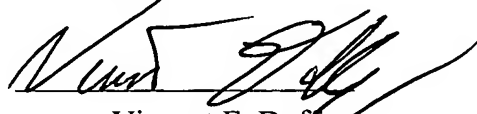
  
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#### CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

6/8/2010  
date

  
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